

A. G. Contract No. KR890587TRD
ECS File: 89-41
Project: H2664 01C
Section: S.R. 92

INTERGOVERNMENTAL AGREEMENT
LANDSCAPE MAINTENANCE
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SIERRA VISTA

THIS AGREEMENT is entered into 30 June 1989, pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF SIERRA VISTA, acting by and through its City Council, (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. It is to the mutual advantage of the State and the City to landscape certain areas within the right of way on State Route 92 at the following location:

From center line roadway station 149+64.27 to center line roadway station 183+11.89, a net distance of approximately .63 miles.

NC <u>13961</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>6-30-89</u>
<u>Juan S. Hernandez</u> Secretary of State
By <u>B. J. Vermillion</u>

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

State will:

a. Prepare plans for the landscaping and irrigation project and submit them to the City for approval.

b. After City approval of the plans, the project will be constructed by the State, using State funds.

City will:

a. Furnish and install necessary water services from water mains to the designated locations within the right of way at the State's expense.

b. Furnish all water for landscape installation during the construction phase, and all water hereafter necessary to properly maintain the landscape.

c. After construction, maintain the landscaping and irrigation system within the right of way. Maintenance will consist of the care of all landscaping in accordance with accepted horticultural practices; keeping all areas free of weeds, undesirable grasses and litter; applying irrigation water; furnishing and applying sprays and dust to combat diseases and other pests; pruning and replanting as required to maintain the landscaping as it was designed; testing, adjusting, repairing and operating the irrigation system; and the repair of all erosion to maintain the final grade established at the completion of the project.

d. Furnish all electrical power necessary to maintain the landscaping within the right of way.

e. Make no changes, additions or deletions without written approval by the State. All maintenance work will be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the State's "Uniform Traffic Control Requirements."

f. Upon completion of the work, reimburse the State 25 percent of the landscape contract costs.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall become effective upon filing with the Secretary of State.

2. The terms, conditions and provisions of this agreement shall remain in full force and effect for a period of five (5) years from the effective date, unless terminated earlier by mutual consent of the parties hereto or unless this agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless either party shall give notice in writing to the other not less than one (1) month nor more than three (3) months prior to the initial or renewed expiration date. Further, this agreement may be terminated by the State at any time upon the giving of 60 days written notice. It is understood and agreed that, in the event this agreement is terminated by the City, the State shall in no way be obligated to maintain said landscaping.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518(B) and (C).

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Engineering Consultants Services
205 South 17 Avenue, Room 118E
Phoenix, AZ 85007

City of Sierra Vista
City Manager
2400 E. Tacoma Street
Sierra Vista, AZ 85635

7. Attached hereto and incorporated herein by reference is a copy of the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement
the day and year first above written.

CITY OF SIERRA VISTA

STATE OF ARIZONA

Department of Transportation

By *Art D. G. Plante*

Title *Purchasing Agent*

By *Gary K. Robinson*

GARY K. ROBINSON

Chief Deputy State Engineer

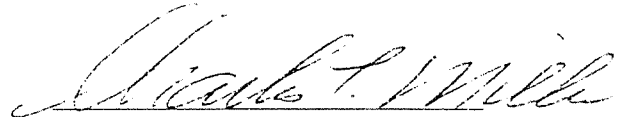
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RESOLUTION

BE IT RESOLVED on this 14th day of March 1989, that I, CHARLES L. MILLER, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Sierra Vista for the purpose of landscaping certain areas within the right of way on State Route 92.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted for approval and execution by the Chief Deputy State Engineer.

A handwritten signature in cursive script, appearing to read "Charles L. Miller", is written over a horizontal line.

CHARLES L. MILLER, Director
Arizona Department of
Transportation

RECEIVED

JUN 12 1989

Budget/Purchasing

OPINION OF LEGAL COUNSEL

Sierra Vista, Arizona

May 1, 1989

TO WHOM IT MAY CONCERN:

The undersigned, being one of the City Attorneys for the City of Sierra Vista, Arizona, a municipal corporation, hereby states that he has made a determination that the City of Sierra Vista, Arizona, is authorized under the laws of the State of Arizona to enter into a certain Intergovernmental Agreement pertaining to landscape maintenance between the State of Arizona and the City of Sierra Vista, being, A.G. Contract No. KR890587TRD, ECS File: 89-41, Project: H2664 OLC, Section: S.R.92. The undersigned has further determined that the above-mentioned agreement is in proper form and that he has approved said agreement as to form.


Stuart L. Fauver
City Attorney

SLF;jw

RESOLUTION 2259

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAFFIRMING THE STREET FINANCIAL POLICY, AFFIRMING THE COUNCIL'S DESIRE TO PROCEED WITH CERTAIN OTHER STREET PROJECTS, AND AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA, WHICH INCLUDES DESIGN, CONSTRUCTION, MAINTENANCE, AND FINANCING OF LANDSCAPE IMPROVEMENT PROJECTS FOR THE RIGHT OF WAY ON STATE ROUTE 92 FROM FRY BOULEVARD TO FOOTHILLS DRIVE; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, The State of Arizona has implemented a Non-Interstate System Landscaping Policy whereby funding is made available to small urban communities for landscaping of highway routes; and

WHEREAS, Landscape Improvement Projects conform to the City's General Development Plan regarding land use, open spaces and urban design; and

WHEREAS, in April 1987, the City made application to the State of Arizona requesting funds for a landscaping project along State Route 92; and

WHEREAS, in August 1987, the Arizona Department of Transportation approved the City application for participation in the cooperative Non-Interstate Landscaping Program; and

WHEREAS, the City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement; and

WHEREAS, it is to the mutual advantage of the City and the State to landscape certain areas within the right-of-way on State Route 92, from center line roadway station 149 + 64.27 (Fry Boulevard) to center line roadway station 183 + 11.89 (Foothills Drive), a net distance of approximately .63 miles; and

WHEREAS, the City has budgeted funds for the State Route 92 Landscape Improvement Project; and

WHEREAS, upon completion of the project, the City shall reimburse the State twenty-five percent of the landscape contract costs; and

WHEREAS, the City is desirous of completing paid improvements through the construction stage.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the policies, purposes and intent of the City of Sierra Vista, most recently set forth in Resolution 1554 and Resolution 1299 be, and the same hereby are, reaffirmed.

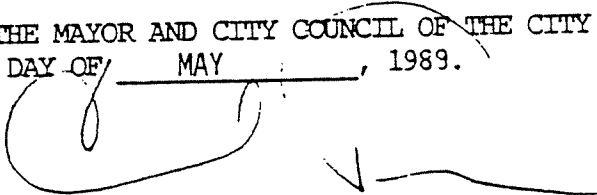
SECTION 2

That the City be, and hereby is, authorized to enter into an Intergovernmental Agreement with the State of Arizona, which includes design, construction, maintenance, and financing of Landscape Improvement Projects for the right-of-way on State Route 92 from Fry Boulevard to Foothills Drive.

SECTION 3

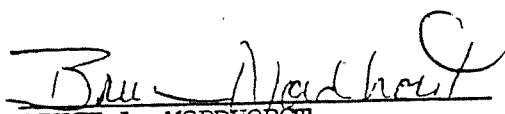
That the City Manager, City Clerk, City Attorney or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 25th DAY OF MAY, 1989.



CARL FRIEDERS
Mayor

ATTEST:




BRUCE A. MORDHORST
City Clerk

APPROVED AS TO FORM:



FAUVER & TILL
City Attorney

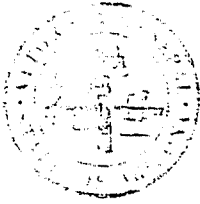
PREPARED BY:



PETER A PLANTE
AACM-Purchasing

RESOLUTION 2259
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RESOLSR92/PAP/QTEXT



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT


DETERMINATION

A. G. Contract No. KR890587TRD, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 23rd day of June, 1989.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division